

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Clifton Daryl Ray Liewald,)	Civil Action No.: 8:16-cv-00859-RBH-JDA
)	
Plaintiff,)	
)	
v.)	ORDER
)	
Warden McFadden, Capt. Brightharp,)	
Lt. R. Cooper, Capt. Thompson, Tamara)	
Ravenell, Sherisse Burch, Nurse Holcomb,)	
Armet Coles, Major Ford, Major Nettles,)	
and Christine Long,)	
)	
Defendants.)	
)	

Plaintiff Clifton Daryl Ray Liewald, a state prisoner proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983 against the above-captioned Defendants. The matter is before the Court for review of the Report and Recommendation (“R & R”) of United States Magistrate Judge Jacquelyn D. Austin, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2) (D.S.C.). *See* ECF No. 156. The Magistrate Judge recommends granting Defendants’ motion to dismiss, or alternatively, for summary judgment.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of those portions of the R & R to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

No parties have filed objections to the R & R, and the time for doing so has expired.¹ In the absence of objections to the R & R, the Court is not required to give any explanation for adopting the Magistrate Judge's recommendations. *See Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation’” (quoting Fed. R. Civ. P. 72 advisory committee’s note)).

Having thoroughly reviewed the record, the Court finds no clear error and therefore adopts and incorporates by reference the R & R [ECF No. 156] of the Magistrate Judge. Accordingly, the Court **GRANTS** Defendants’ motion to dismiss, or alternatively, for summary judgment [ECF No. 150] and **DISMISSES** this case *without prejudice*.²

IT IS SO ORDERED.

Florence, South Carolina
December 28, 2017

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

¹ Defendants’ objections were due by December 4, 2017, and Plaintiff’s objections were due by December 7, 2017. *See* ECF Nos. 156 & 157.

² This dismissal is without prejudice to Plaintiff’s right to refile once exhaustion of administrative remedies is complete. *See, e.g., Germain v. Shearin*, 653 F. App’x 231, 234–35 (4th Cir. 2016) (affirming the district court’s order granting summary judgment based upon the plaintiff’s failure to exhaust administrative remedies, but modifying the dismissal to be without prejudice to the plaintiff’s right to refile once he had exhausted administrative remedies); *French v. Warden*, 442 F. App’x 845, 846 (4th Cir. 2011) (same).